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PARTY LEADERSHIP CONTESTS IN ONTARIO



COMMISSION ON ELECTION FINANCES

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The Ontario Legislature has set up one of the most comprehensive systems of election and political financial control to be found anywhere. It is working well to create confidence in our electoral system.

To maintain this confidence, it is essential that the financing of all political campaigns and contests be brought out into the open. The Election Finances Act is not intended to restrict a party's choice of a leader, but it does require that certain financial guidelines be followed.

The Act contains disclosure requirements for contributions and expenses during leadership contests. No limits are placed on either contributions or expenses, but the manner in which the funds are handled must conform with the statutory requirements.

This booklet is intended as a handy reference for leadership contestants, their Chief Financial Officers and others involved in registered leadership contests in Ontario. The Commission's "Guidelines for the Chief Financial Officers" should be referred to for further guidance.

Donald C. MacDonald
Chairman, for the Commission



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SECTION 1

LEADERSHIP CONTESTANTS

The Election Finances Act brings the financing of contests for the leadership of political parties out into the open. It applies to all contestants seeking the leadership of a provincial party registered with the Commission on Election Finances.

You are responsible for ensuring the Commission receives all financial information about your contest and that this information is accurate. This remains your responsibility whether you win or lose the leadership vote.

Failure to comply with the reporting provisions of the Act can result in fines, forfeiting your seat in the Legislative Assembly and prohibition from running again in the next general election.

After the leadership vote, a summary of monies raised and spent for your contest will be made public. This information, to be kept on file with the Commission, will include lists of the names, addresses and contributions of everyone who gave more than \$100 to your contest.

RESPONSIBILITIES

1. Before you apply to the Commission for registration, select a **Chief Financial Officer**. Your Chief Financial Officer (C.F.O.) will be
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responsible for keeping records of all your financial transactions, including both incoming funds and contest expenditures. The C.F.O. also completes and files the required report on your contest. It is strongly recommended that you select someone who has experience in bookkeeping or accounting.

The Commission will provide your C.F.O. with special Guidelines to the Election Finances Act. Remember that your C.F.O., because of the possible legal liabilities, must consent to act in the position.

2. Engage an **Auditor**. The auditor named in your application for registration must be a public accountant licensed to practice in Ontario. The auditor will examine and report on your contest financial statements. If your statements are correctly filed, the Commission will help you pay the auditor's fee.
 3. Since the Act prohibits a leadership contestant from personally accepting contributions, it is necessary to appoint and advise the Commission of the principal **person(s) authorized to accept contributions** on your behalf. Only your C.F.O. can issue receipts for contributions. Therefore, any contributions accepted should be immediately turned over to the C.F.O. for deposit into your leadership contest bank account.
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Note: Contributions to leadership contests are **not** tax deductible.

4. Select all **bank accounts** you will use for your contest and designate who will have signing authority for these accounts. The Act requires that all funds received must be deposited into one of the accounts on record with the Commission.
5. Decide where in Ontario your **contest records** are to be kept. The Commission retains the right to inspect your records.

REGISTRATION

Every leadership contestant must register with the Commission on Election Finances. The necessary forms are available on request from the Commission.

Your application cannot be filed prior to your party's submission to the Commission of a statement which contains an official call for a leadership convention, as well as a fixed date for the leadership vote. If the official call has been submitted you are deemed a registered contestant on the day you file your application.

Until you are registered, you cannot receive contributions or spend money.

CHANGES OF INFORMATION AFTER REGISTRATION

Should there be any changes to the information provided to the Commission in your registration, you must give written notice of the changes.

If your C.F.O. ceases to hold that position, you must immediately appoint another person as C.F.O.

CONTEST ADMINISTRATION

The contest period covers the time from receipt by the Commission of the official call until two months after the leadership vote. This enables your fund-raisers to generate additional funds to meet contest expenses.

FILING OF RETURNS

Win or lose the leadership vote, you must file on the prescribed form, within six months of voting day, a complete accounting of all monies raised and spent by your contest. Make sure your C.F.O. files the required audited statements together with the auditor's report.

Your audited contest return will be available to the public for examination together with a list of the amounts, names, and addresses of everyone who contributed more than \$100 to your contest.

If your contest ends with a deficit, you are responsible for discharging it. If your contest ends with a surplus all extra monies must be turned over to your registered party.

With the exception of audit subsidies, there are no public subsidies for leadership contestants.

CONTRIBUTIONS

The Election Finances Act specifies in detail how the money you raise must be handled. All amounts considered to be contributions, including the use of contestants own funds, as well as contributions of goods and services, **must** be receipted. It is essential that your C.F.O. follows very carefully the guidelines issued by the Commission.

Full particulars regarding the sources from which funds can be solicited, borrowing, fund-raising events, prohibited sources, etc., are given in section 3.

SECTION 2

CHIEF FINANCIAL OFFICERS

Being the Chief Financial Officer for a leadership contestant is an important function. The Commission will provide you with special guidelines to help clarify how the Act applies to leadership contests. The Commission will also provide you with the official contribution receipt forms to be used.

You are responsible for all financial aspects of the contestant's leadership contest. Your duties include maintenance of complete financial records and preparation of the reports required by the Commission. For this reason, the Commission recommends that C.F.O.s have accounting or bookkeeping experience.

Your other responsibilities include ensuring that:

- All funds received are deposited in the Ontario bank, trust company or credit union account you have registered with the Commission.
 - Contributions consisting of goods and services are valued and recorded as described in the Act and official receipts issued accordingly.
 - Official receipts are issued for all contributions accepted, **after** they have been deposited in the contestant's bank account.
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- All payments, with the exception of minor disbursements from the petty cash account, are made by cheque.

Because it is a requirement for financial records to be audited, and since all statements to be filed with the Commission must be accompanied by an auditor's report, we strongly recommend that, soon following your appointment as a C.F.O., you meet with your auditor.

ADMINISTRATION OF FUNDS

It is important that you keep records of **all** the financial support your contestant received, whether it is in the form of money or goods and services.

The contestant's organization can accept money from the provincial party, recording only that it came from the party and was deposited in the account registered with the Commission.

Constituency associations are prohibited from contributing directly to a leadership contest.

Section 3 of this booklet gives a detailed description of the different types of acceptable contributions, along with information on illegal contributions, holding fund-raising activities, etc. As C.F.O. you must be familiar with all matters covered in that section.

If you find you have received contributions prohibited by the Act, it is your responsibility to return them. If the donor is anonymous or cannot be found, you are required to turn the contribution over to the Commission. It is your responsibility not to accept contributions that are prohibited under the Act.

Note: Contributions payable to a contestant's leadership contest cannot be accepted until the contestant is registered with the Commission.

AUDIT REQUIREMENTS

The Commission will provide forms to fill out for the information it requires regarding the leadership contest. Details of your total contributions, expenses and fund-raising event activities will be needed, together with the names and addresses of every person, corporation or union who donated more than \$100.

The financial statements submitted to the Commission must be audited. The Commission will pay the costs of the audit up to a maximum of \$600 for a contestant's leadership contest statement.

SECTION 3

RUNNING A LEADERSHIP CONTEST

The Election Finances Act places no limits on either the amount each contributor may give to a registered leadership contestant or on the total contributions a contestant may receive from all sources.

However, it is necessary to provide the C.F.O. with accurate information as to the source of every contribution collected and turned over for deposit, as the C.F.O. is required to report that information to the Commission. If the C.F.O. does not, there are penalties and the contestant may not be eligible to run in the next election.

CONTRIBUTION LIMITATIONS

The Act provides for:

1. Regulations regarding acceptable sources for contributions;
2. The time over which contributions can be accepted; and
3. The form in which contributions can be made.

1. SOURCE LIMITS

The eligible sources of acceptable contributions are:

- (a) Any person normally resident in Ontario;
- (b) Corporations that carry on business in Ontario; and
- (c) Trade Unions that hold bargaining rights for employees in Ontario and labour councils located in Ontario.

If an unincorporated association such as a partnership or a political group affiliated with the contestant makes a contribution, the contribution must be accompanied by the names of the individuals responsible for the donation and the portion of the total attributable to each so that a receipt can be issued to each.

Watch for corporate contributions where the cheque bears the name of two corporations because this joint venture of the corporation is actually a partnership. The amount of each corporate partner's contribution must be determined so that a receipt can be issued to each.

As well, remember that any monies used out of the leadership contestant's own funds are contributions to that leadership contestant and must be treated accordingly.

2. TIME LIMITS

Fund-raisers must realize that they cannot accept contributions to the contestant's leadership contest prior to the contestant's registration with the Commission.

The fund-raising activity for the contest does not automatically end the day of the vote but may continue up to two months after the election of the leader. The extended period will be helpful for raising additional funds required to ensure all the contestant's leadership contest expenses are paid.

3. FORM LIMITS

Cash contributions may only be accepted in amounts up to \$25 and require the name and address of the contributor be supplied to the C.F.O.

Contributions over \$25 must be made by a cheque drawn on a bank account in the contributor's name, by a money order signed by the contributor or by a charge on a credit card which is embossed with the contributor's name.

It is important to note that contributors can only make contributions from their own funds.

For example, if a contribution is made using a corporation cheque, then the receipt **must** be made out in the name of the corporation. A corporation

cannot make contributions on behalf of individuals.

Anonymous contributions cannot be accepted. A contribution received from an unknown source must be turned over to the C.F.O. who will remit it to the Commission.

In addition to contributions of monies, a contributor may provide goods and services.

CONTRIBUTIONS OF GOODS AND SERVICES

When services are donated, the basic rule is that work done by people acting on a voluntary basis does **not** count as a contribution. Also, if a company or a union voluntarily makes people available to help in your contest and does not pay them extra for doing so, this does not count as a contribution.

However, some goods or services you receive as donations may be considered a contribution. If the goods and services from a single source are valued in excess of \$100 over the contest period, they are considered a contribution and must be recorded, together with the name and address of the contributor. Therefore, it is important that you keep records of all such contributions, just as you would with money.

If the total value over the contest period is \$100 or less, it will still be considered a contribution except where the donor expressly states that it is not a contribution.

The rule for setting the value of donated goods is that they must be considered contributions equal in value to what their normal cost in your area would be. For instance, if a donation is made of a typewriter which would normally cost \$200, you must record it as a contribution of \$200 along with the name and address of the contributor.

This also applies to goods bought at a reduced price where the value of the contribution is the difference between the price paid and the normal selling price.

Similarly, if the leadership contestant makes contributions of goods and services, the fair market value of these goods and services is the value of the contribution.

CONTRIBUTION RECORDS

The name and address of every person, corporation or union who makes a donation should be recorded. A list of the amounts, names and addresses of everyone who contributed more than \$100 to your contest must be filed along with the financial statements.

CONTRIBUTIONS NOT ACCEPTABLE

Contributions cannot be accepted from any person who does not live in Ontario, a company that does not carry on business in Ontario or a union that does not represent employees in the Province.

Contributions from out-of-province and federal political organizations, as well as provincial constituency associations in Ontario cannot be accepted.

Cash contributions in excess of \$25 cannot be accepted. Contributions over this amount must be made by credit card, cheque or money order.

Contributions payable to a contestant cannot be accepted until the contestant is registered with the Commission.

Anonymous contributions to leadership contestants are never acceptable, nor are donations of monies not belonging to the contributor.

If the contestant's organization has received contributions prohibited by the Act, it is the C.F.O.'s responsibility to return them. If the donor is anonymous or cannot be found, the C.F.O. is required to turn the contribution over to the Commission.

NON-CONTRIBUTION SOURCES OF FUNDS

A contestant may borrow money for contest purposes from any chartered bank or recognized lending institution in Ontario; from a registered Ontario political party or a registered Ontario constituency association. The terms of the loan will have to be recorded and included in the financial report to the Commission. The contestant may **not** accept a loan from any other source.

Funds may be transferred to your contest by a political party registered with the Commission.

Also, at the option of the donor, goods and services valued at less than \$100 over the contest period may be considered not to be a contribution.

In some circumstances, part of the income from the sale of tickets to a fund-raising event, such as a dance, will be non-contribution funds.

FUND-RAISING EVENTS

Holding a social function is a popular way of raising funds for a leadership contest. Fund-raisers should, therefore, be aware that part of the price of the ticket to an event may have to be considered a contribution.

The contestant holding the event has the option of considering a portion of

the ticket price up to a maximum of \$25, **not** to be a contribution.

For example, if a ticket for a dance is sold for \$75 a couple, the "per person" charge is \$37.50 of which up to \$25 can be considered not to be a contribution, with the remaining \$12.50 or more deemed a contribution to the leadership contestant.

In addition, ticket sellers must ensure that where the contribution portion of the ticket price exceeds \$25, the payment for the ticket is by way of a cheque drawn on a bank account in the purchaser's name, a credit card embossed with the purchaser's name, or a money order signed by the purchaser.

All proceeds and particulars regarding the purchasers of tickets must be turned over to the C.F.O. for deposit and recording purposes.

Contributions are not officially received until the date the C.F.O. deposits them in the registered account of the contestant.

Remember that **receipts must be issued** by the C.F.O. for contributions to leadership contests even though the contributions are not tax deductible.

The expenses of the event should be paid by the C.F.O. by way of a cheque drawn on the contestant's bank account with all documentation being retained by the C.F.O. for audit purposes.

More detailed particulars about organizing fund-raising functions are available on request from the Commission.

DISPOSITION OF FUNDS

Every contribution accepted by the fund-raisers must be given immediately to the C.F.O. The C.F.O. is required to deposit in an account registered with the Commission all contributions and to issue receipts for each one.

EXPENDITURES

The Election Finances Act does not impose any spending limits on contests for the leadership of registered Ontario parties. However, it is important that the C.F.O. keep accurate records of all expenditures.

The report required by the Commission at the end of the contest must contain particulars of all expenditures made.

A "leadership contest expense" is any expense incurred in relation to a leadership contest by or on behalf of a leadership contestant registered with the Commission during the period beginning with the official call for a leadership convention and ending on the day of the leadership vote.

If leadership contest expenses are paid directly by the leadership contestant out of the contestant's own funds, the contestant should submit a written statement of them to the C.F.O. for the financial records.

ADVERTISING

If free time is available to all contestants in accordance with the provisions of the Broadcasting Act (Canada), it does not count as an expense or a contribution.

No broadcaster or publisher can charge you less for space or time than would be charged anyone else for an equivalent amount of space or time for the same period. If such is the case, the difference between the normal rates and what was charged is a contribution. The ads would be counted as expenses using the normal rates.

SECTION 4

ACTIVITIES BEFORE REGISTRATION

Notwithstanding the restrictions of the Election Finances Act with respect to the leadership contest, there may be situations when a potential leadership contestant must determine if success in a leadership contest may be financially or politically feasible. For that purpose, the Commission has determined that certain expenses may be incurred prior to the commencement of the leadership contest period.

PERMITTED EXPENDITURES

Provided that no portion of the following expenditures was incurred for the purpose of soliciting support for or opposing a leadership contestant, these expenses may be incurred by a potential contestant prior to registration:

- auditor's and accounting fees;
- interest on loans; and
- costs associated with research and polling.

FINANCING THESE ACTIVITIES

Only two sources of funds may be used in order to finance these permitted activities:

1. Expenditures may be paid out of the potential leadership contestant's own funds.
2. A potential leadership contestant may borrow from any chartered bank or other lending institution in Ontario. Such loans may only be guaranteed by the potential contestant.

DISCLOSURE OF THESE ACTIVITIES

All uses of the leadership contestant's own funds, borrowing and expenditures described in this section must be reported in the Statement of Income and Expenses to be filed by the leadership contestant's C.F.O. following the leadership contest.

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OTHER PUBLICATIONS
AVAILABLE ON REQUEST:

**FUND-RAISING FUNCTIONS
UNDER ELECTION FINANCES
LAW OF ONTARIO**

**POCKET GUIDE TO ELECTION
FINANCES LAW OF ONTARIO**

**POLITICAL CONTRIBUTIONS
IN ONTARIO**

